

1 I mean, I heard it, it was a good explanation, that there  
2 was the must carry. So there was an incentive to improve  
3 your public service appearance to get into the must carry.

4 THE WITNESS: Yeah.

5 JUDGE SIPPEL: And what about in that period of  
6 time, do any of your -- I mean, you had some good ideas.  
7 Did any of those get picked up at that time?

8 THE WITNESS: Post '94. It wasn't until 1997 that  
9 we were able to start getting some half hour shows on. And  
10 George Mattmiller was kind of allowing this to happen.

11 JUDGE SIPPEL: What's the this that he was  
12 allowing?

13 THE WITNESS: Allowing us to work some half hour  
14 programs onto the station, okay? And it was easier in '97  
15 to try to work on some half hour programs, getting them into  
16 the rotation, public affairs programs, because we weren't  
17 running the home shopping club any longer. We were running  
18 this infomall network and there were time slots that we  
19 could go in and take for our own and we wouldn't be losing  
20 out on any revenue. Like we would before.

21 JUDGE SIPPEL: Explain that to me a little bit.

22 THE WITNESS: Okay. For example --

23 JUDGE SIPPEL: Wait, how did the infomall, how did  
24 that work?

25 THE WITNESS: Okay. That's Bud Paxon.

1 JUDGE SIPPEL: I don't know anything about him.

2 THE WITNESS: Okay. It was a situation where we  
3 would have infomercials sent to us on tape, 30 minute  
4 programs that all they do is sell a product. You know, the  
5 ab cruncher, you know, you can help your abs. Or Richard  
6 Simmons go on a diet. You know, all these things you see  
7 them on TV all the time. We just ran those things all day,  
8 all night, 24 hours.

9 JUDGE SIPPEL: Now, is this -- are we into this  
10 period '94?

11 THE WITNESS: Yeah.

12 JUDGE SIPPEL: Forward?

13 THE WITNESS: Yeah.

14 JUDGE SIPPEL: All right. These are what you're  
15 running?

16 THE WITNESS: Right.

17 JUDGE SIPPEL: Did they allow more time --

18 THE WITNESS: They allowed more time for us to put  
19 in other types of programs and some of the time slots we  
20 were able to sell and put more infomercials on. As sales  
21 manager, I was able to go out and work with companies like  
22 Williams Television Time out of California and place orders.  
23 I'd be able to put their infomercials on our station when I  
24 had available time slots. And, generally, they paid better  
25 than some of the infomercials we were currently getting paid

1 for. And that was even going back to home shopping club  
2 days.

3 So, the available time slots had opened up. We  
4 were able to put in some of these half hour programs come  
5 '97 I believe was the time period. And these shows were --  
6 some of them were like those vignettes that I mentioned,  
7 Community Outreach. We just blossomed it into a half hour  
8 format. We took it from its three minute vignette that we  
9 were running back during the home shopping club and now we  
10 actually had a whole half hour. And it was the same style.

11 We'd have somebody come into our studio, sit down,  
12 we'd ask them questions. Maybe somebody from the United  
13 Way. Maybe we'd have somebody from United Way that had  
14 benefited from it. They went to United Way and the United  
15 Way really helped them and they came on to give a  
16 testimonial. So, that kind of stuff happened before I left.

17 JUDGE SIPPEL: Now -- all right. Now, in terms of  
18 that, that sequence, '94 up until the time you left, I'm  
19 just generalizing now what I've heard you say, that things  
20 started to improve along these lines.

21 THE WITNESS: Um-hmm.

22 JUDGE SIPPEL: Getting more and better public  
23 service programming in there. Did -- and that's actually  
24 the result of your efforts and Mr. Mattmiller's efforts.  
25 Did Mr. Parker --

1 THE WITNESS: And Ms. Bradley's.

2 JUDGE SIPPEL: And Ms. Bradley's, I'm sorry, I  
3 didn't mean to leave her out. But did Mr. Parker ever say  
4 this is getting to be too much, something like that? You  
5 know, we got to cut back on this, you know, when you had  
6 these meetings, these business management meetings, did he  
7 ever get into anything like that? In that timeframe.

8 Or, on the other hand, did he say this thing is  
9 looking pretty good. What kind of feedback were getting  
10 from Mr. Parker?

11 THE WITNESS: Didn't really get any feedback.  
12 Again, he'd like to -- he liked to stay away from discussing  
13 that when he was in town. Occasionally, he would, but  
14 usually George would bring it up. George Mattmiller would  
15 bring it up and Mike would shoot him down right away,  
16 George, I don't want to talk about public service. I'm, you  
17 know, I'm imitating what Mike would say. I don't want to  
18 talk about it, you know. And, you know, I might --

19 JUDGE SIPPEL: Well, was it because it was a too  
20 -- he was a busy man, he wanted to talk about numbers, he  
21 didn't want to talk stuff like that? Or, what --

22 THE WITNESS: That, yeah, I kind of got that  
23 impression from it. That's my impression.

24 JUDGE SIPPEL: Yeah, I'm asking you what's your  
25 impression.

1 THE WITNESS: Yeah. That I got from it. And  
2 that, you know, he didn't want to be bothered with it and  
3 just seemed like that was his stance all the way through  
4 when he first came in, you know, in 1989 when he told us to  
5 cut out the public service.

6 JUDGE SIPPEL: But, again, I know what -- I don't  
7 want to go back to pre '94 just now. But he understood what  
8 was happening from '94 on and he was aware what was  
9 happening, at least in a general way. There's nothing that  
10 you saw that would prevent him from knowing about what was  
11 happening. And he never came in and put the kaboch on it.  
12 He never said, hey, we got to stop doing that.

13 THE WITNESS: Yeah.

14 JUDGE SIPPEL: You just didn't talk about it.

15 THE WITNESS: Yeah, just didn't talk about. The  
16 only --

17 JUDGE SIPPEL: He wanted numbers.

18 THE WITNESS: Yeah, the only time -- you know,  
19 sometimes he would get more involved with the public affairs  
20 if it was something that he specifically wanted on.

21 JUDGE SIPPEL: He might like some stuff then?

22 THE WITNESS: Yeah.

23 JUDGE SIPPEL: Like what?

24 THE WITNESS: Well, one thing that he wanted on  
25 was Dr. Scott. I don't know if you're familiar with Dr.

1 Eugene Scott. It's a religious program.

2 JUDGE SIPPEL: I've heard the name.

3 THE WITNESS: Okay. Now, you know, we ran that on  
4 Mike's request. You know, Mike Parker. You know, this is  
5 even when we had the home shopping club. I know you don't  
6 want to go back there, but --

7 JUDGE SIPPEL: Well, that's all right.

8 THE WITNESS: Okay.

9 JUDGE SIPPEL: That's okay. You can go ahead.  
10 This was on back then also?

11 THE WITNESS: Yeah. I mean, he would pre-empt the  
12 home shopping club for that. He would put this Dr. Scott  
13 on. I mean, we ran this thing 1992, I think, 1991,  
14 somewhere in that area. And I didn't consider it to be  
15 public service and I don't think George did, but I'm not  
16 going to speak on behalf of George, but --

17 JUDGE SIPPEL: Well, wait a minute, wait a minute,  
18 wait a minute. You were working with Mr. Mattmiller all  
19 this period of time. What did he say about Dr. Scott's  
20 program?

21 THE WITNESS: He didn't know what to make of it.  
22 He just couldn't understand what it was all about. And I  
23 could relate with him on that because he had this program  
24 that was supposed to be a religious person, possibly a  
25 preacher, somebody that's schooled in theology, and the guy

1 just sound like a raving lunatic. And, you know --

2 JUDGE SIPPEL: I don't want to hear about the  
3 contents of the programming.

4 THE WITNESS: Okay.

5 JUDGE SIPPEL: The point is that it didn't strike  
6 you as being public service.

7 THE WITNESS: No.

8 JUDGE SIPPEL: All right. Well, I was trying to  
9 follow up on -- you made an observation that there some  
10 public -- I heard -- I thought you were saying that there  
11 was some public service programming that Mr. Parker wanted  
12 or that he was strong on. And aside from Dr. Scott, was  
13 there anything else?

14 THE WITNESS: He liked the minute with the mayor  
15 idea, as far as I think because he was mayor of Tacoma at  
16 one time. He liked that idea. But he didn't -- he wasn't  
17 concerned when we weren't taping any longer. He just  
18 wondered, hey, what happened to the show, and I explained to  
19 him, well, they weren't able to come into the studio any  
20 longer. They had a busy schedule, the mayor and his  
21 assistant. We would have to go to their office, and, you  
22 know, we had to take the crew out there. And he was like,  
23 all right, then don't worry about it.

24 So those were two shows that I remember. Let's  
25 see if I can think of anything else.

1 JUDGE SIPPEL: How did you get along with him?

2 THE WITNESS: Great.

3 MR. COLE: Excuse me, Your Honor, for the record,  
4 with whom?

5 JUDGE SIPPEL: Mr. Parker. Mr. Parker.

6 MR. COLE: Thank you.

7 JUDGE SIPPEL: Good point. You and Mr. Parker,  
8 how did you get along?

9 THE WITNESS: Terrific. Never had any problems  
10 with him that I was aware of. Seemed like he counted on me  
11 to handle a lot of the responsibilities around there.  
12 Always took care of me, my family. He was nice to my  
13 children if they came into the station.

14 JUDGE SIPPEL: You ever have any confrontations  
15 with him about the policy of the station?

16 THE WITNESS: Yeah. Yeah, I did. Dr. Scott is an  
17 example of one time where here we were in the '80's, '89,  
18 '90, '91, somewhere in that vicinity where the station's  
19 hurting, financially, as it always was, very unstable. But  
20 we were really in some tight times. And here we are  
21 pre-empting the home shopping club, we can't put other types  
22 of programs on 'cause home shopping club pays us every hour  
23 we run them, so we don't want to lose out on any revenue,  
24 yet we're putting Dr. Scott on and we weren't getting paid  
25 for it. I just didn't understand that. And, plus --

1 JUDGE SIPPEL: Did you confront him with it?

2 THE WITNESS: Yeah.

3 JUDGE SIPPEL: What did he say?

4 THE WITNESS: He said you don't have to worry  
5 about that, about Dr. Scott, we'll get something down the  
6 road. It'll be taken care of. He said but right now, we're  
7 going to run him and we're going to keep him on. So, we --  
8 he was on, he was off. We tried him at different time  
9 slots. Used to get a lot of phone calls, people, viewers  
10 calling in complaining, you know, what the heck is this  
11 stuff.

12 JUDGE SIPPEL: What happened after '94? You had  
13 the infos?

14 THE WITNESS: Yeah.

15 JUDGE SIPPEL: You had these 30 minute public  
16 service takes which were a big improvement.

17 THE WITNESS: Um-hmm.

18 JUDGE SIPPEL: How about program like Dr. Scott's,  
19 was that in there, too?

20 THE WITNESS: After '94? It may have been on, may  
21 have tried to squeeze him in like on a Sunday morning,  
22 Sunday afternoon that he would show up. I'm not positive  
23 about that, but I think he would come on for like an hour.

24 His services ran strange times. Like it could  
25 come off like 45 minutes and then we'd have 15 minutes to

1 fill. We would try to throw some public service vignette in  
2 there to fill up the rest of the time. Yeah, I believe '94,  
3 yeah, I think we were still running Dr. Scott '90, maybe '95  
4 try to pop him in on a Saturday or Sunday morning or Sunday  
5 afternoon.

6 And if -- like I say, I didn't, I wasn't aware of  
7 the station being reimbursed in any way. According to  
8 finances with Barbara Williamson and about my questioning  
9 Mike Parker on, you know, why are we pre-empting the home  
10 shopping club, or at that time, these other programming.  
11 Why are we pre-empting and putting Dr. Scott on when we  
12 could be making money by putting other programs on that'll  
13 pay us to put them on.

14 JUDGE SIPPEL: Yeah, but that's -- everything that  
15 you said there doesn't really -- doesn't have anything  
16 really to do about public service. That has more to do with  
17 some business decisions, be they good or bad.

18 THE WITNESS: Well, I guess, judge, you asked me  
19 about confrontations.

20 JUDGE SIPPEL: I did.

21 THE WITNESS: With Mr. Parker.

22 JUDGE SIPPEL: No, that's right.

23 THE WITNESS: And that -- that was one of them.

24 JUDGE SIPPEL: So, but that was on a business  
25 basis.

1 THE WITNESS: Yeah.

2 JUDGE SIPPEL: I mean, you thought this is not the  
3 way you run a station.

4 THE WITNESS: Yeah. I mean, if we're hurt  
5 financially and we're, you know, cut the staff down, getting  
6 rid of, you know, we're cutting down our public service  
7 efforts and we're not buying new equipment, the place is  
8 really looking, looking like it's going down the tubes, why  
9 are we taking the home shopping club off and putting this  
10 Dr. Scott on and losing revenue right there. So, that was  
11 something I --

12 JUDGE SIPPEL: That was business.

13 THE WITNESS: Yeah.

14 JUDGE SIPPEL: That was a business decision that  
15 you didn't think was a good decision.

16 THE WITNESS: Yeah. Personally, naw, there  
17 weren't any confrontations. He invited me and flew my wife  
18 and I out to his wedding back in '97, I believe. Very  
19 friendly with him.

20 JUDGE SIPPEL: And why did you say you -- why did  
21 you leave in '98?

22 THE WITNESS: Well, I'll guess why I left. I  
23 wasn't -- I was let go.

24 JUDGE SIPPEL: Wait a minute, you didn't guess.  
25 You would have stayed if you had a choice.

1 THE WITNESS: Right. Right. Frank McCracken told  
2 me that my last day would be whatever day it was and that,  
3 you know, they wouldn't need me after that. So, that's the  
4 way I left the station.

5 JUDGE SIPPEL: All right.

6 THE WITNESS: I just have assumptions why, but I  
7 don't know. I never heard from Mike Parker.

8 JUDGE SIPPEL: I'm not going to ask you about your  
9 assumptions.

10 All right, I've taken up more of your time than I  
11 thought I was going to take. It's quarter to 12, you want  
12 to take, you want to give him a break?

13 MR. COLE: As you wish, Your Honor, it's fine with  
14 me if you want. I'm happy to take a break if you want.  
15 That's fine with me.

16 JUDGE SIPPEL: It's up to -- how much more you  
17 think you going to have?

18 MR. COLE: I still have a while because although  
19 Mr. Bendetti has covered a number of areas I was expecting  
20 to cover in his various responses to you, so if you give me  
21 a break, will let me narrow down what I'm going to try to do  
22 and focus a little bit more.

23 JUDGE SIPPEL: Okay. It's quarter of 12. You  
24 think that -- we have another witness coming in, what, 1:30?

25 MR. COLE: 1:30, but I can call and tell him come

1 back 2:30, or something along those lines if you like.

2 JUDGE SIPPEL: Well, why don't we -- you know, can  
3 we finish this up with this other -- if we take a break  
4 between now and you can make your call -- can we finish him  
5 up you think in 30 minutes and then maybe take the next  
6 witness at 2:00? How does that sound?

7 MR. COLE: I will try. I will definitely try. I  
8 can't guarantee it.

9 JUDGE SIPPEL: Well, we got to get out because Mr.  
10 Hutton has got to -- Mr. Hutton has to do him on redirect.  
11 I'm sorry, on cross-examination.

12 MR. COLE: This may go -- it may go longer than  
13 that, I'm afraid.

14 JUDGE SIPPEL: Oh, yeah. Oh, yeah. All right.  
15 Well, we have to give him a break. It's ten to 12, almost  
16 ten to 12. We'll come back at 12:00 and I think you better  
17 call is it Mr. Wadlow?

18 MR. COLE: Mr. Wadlow and Mr. Geolot, I'll give  
19 them a buzz right now.

20 JUDGE SIPPEL: Yeah, give them a buzz and tell  
21 them probably put his time off for at least another hour,  
22 2:30. Okay?

23 (Whereupon, a brief recess was taken.)

24 JUDGE SIPPEL: Okay, we're back on the record.  
25 We're back in session. You want to continue, Mr. Cole?

1 MR. COLE: Yes, thank you, Your Honor.

2 BY MR. COLE:

3 Q Mr. Bendetti, I just want to clear up a couple  
4 questions that I believe after the judge's examination of  
5 you, first, there was discussion of a Dr. Scott's show. Can  
6 you tell me whether Dr. Scott's show included fund raising  
7 as part of its substance?

8 A Yeah, that's what the show was constantly had a  
9 phone number on the screen where people could call up, send  
10 money. He was constantly asking for money.

11 Q And did any portion of the, of any funds that  
12 might have been raised by that show come to the station?

13 MR. HUTTON: Objection, relevance.

14 JUDGE SIPPEL: I want to -- let me hear your  
15 response.

16 MR. COLE: Well, my argument, Your Honor, is that  
17 there had been -- Mr. Bendetti has testified that Mr. Parker  
18 was not inclined to allow any pre-emptions of programming,  
19 of home shopping programming for public service type program  
20 because public service type programming would not pay and,  
21 therefore, the station would lose money. And I'm trying to  
22 determine or tie down that the Dr. Scott program did not  
23 generate any revenues, and yet, was apparently acceptable to  
24 Mr. Parker as a pre-emption for home shopping during the  
25 period 1989 to 1994.

1 JUDGE SIPPEL: Well, I don't think that we need to  
2 -- I don't want to go down that road because the testimony  
3 was that Mr. Parker was -- I mean, Mr. Parker was in charge.

4 MR. COLE: Um-hmm.

5 JUDGE SIPPEL: Mr. Parker says I want to run Dr.  
6 Scott's program.

7 MR. COLE: Yes.

8 JUDGE SIPPEL: And he didn't care whether he was  
9 going to interrupt home shopping, or whatever, he was going  
10 to run Dr. Scott. So, you know, what the business end of  
11 all of that was, I don't think is relevant to what we're  
12 talking about.

13 MR. COLE: Well, Your Honor, if I might, it's  
14 relevant because Mr. Bendetti's also said that as far as  
15 pre-empting home shopping programming for other types of,  
16 for example, public service programming or public affairs  
17 show, Mr. Parker said he didn't want to do that, would not  
18 do that. And justified it because, as I understand Mr.  
19 Bendetti's testimony, because the station would lose money  
20 as a result. The station was willing to pre-empt  
21 programming -- well, strike that.

22 The station was not willing to pre-empt  
23 programming if it cost the station money in favor of home  
24 shopping in favor of public affairs type programming. And,  
25 yet, during the same period of time, at least as far as I

1 can tell from Mr. Bendetti's testimony, the station was  
2 willing to pre-empt money making home shopping programming  
3 for Dr. Scott.

4 JUDGE SIPPEL: Right. And I asked him about that  
5 when he had his confrontation --

6 MR. COLE: Right.

7 JUDGE SIPPEL: With Mr. Parker, and he thought it  
8 was a very bad decision and he explained why.

9 MR. COLE: Yeah.

10 JUDGE SIPPEL: So that's all I need to know.  
11 There's nothing on your outline about going to this Dr.  
12 Scott stuff.

13 MR. COLE: Your Honor, you asked it. I mean, I  
14 did not contemplate that you were going to insert yourself  
15 to the extent you have, but I'm just trying to clean it up  
16 to make sure --

17 JUDGE SIPPEL: Well, I just want to be sure that  
18 it's clear that I'm not cutting you off from something that  
19 you had expected --

20 MR. COLE: No.

21 JUDGE SIPPEL: To do.

22 MR. COLE: No.

23 JUDGE SIPPEL: All right.

24 BY MR. COLE:

25 Q Mr. Bendetti, also during examination by Judge

1 Sippel, you mentioned programming and station's overall  
2 programming during the period 1994 to 1998, which is past  
3 the renewal term at issue here. I have a brief question  
4 about that. And that is to your knowledge -- strike that.

5 Were you aware in 1994 that Adams Communications  
6 Corporation had filed a competing application against WTVE's  
7 1994 renewal application?

8 MR. HUTTON: Objection, relevance.

9 JUDGE SIPPEL: I'll admit that question. Go  
10 ahead.

11 Do you know that? Can you answer that question?

12 THE WITNESS: Yeah. Specifically, was it 1994,  
13 maybe 1995, I'm not sure exactly what year it was, but,  
14 yeah, I was aware that WTVE's license was being challenged  
15 by a group called Adams Communication, Inc., I believe  
16 they're out of Chicago. And that they were successful in  
17 taking a license away from a television station out in  
18 Chicago.

19 JUDGE SIPPEL: No, no, no, that's not responsive  
20 to his question. He just asked you straight up was there a  
21 competing application filed. Your answer is yes, you knew  
22 about that.

23 THE WITNESS: Yes.

24 JUDGE SIPPEL: All right.

25 BY MR. COLE:

1 Q Did other members of the staff know about that?  
2 The staff at the station, to your knowledge.

3 A Yes.

4 Q To your knowledge, was the awareness of the Adams'  
5 challenge an influence in any programming decisions made by  
6 the station in 1994 to 1998?

7 MR. HUTTON: Objection, relevance.

8 JUDGE SIPPEL: I'm going to overrule the  
9 objection. I'm going to let him answer that.

10 THE WITNESS: Yes, I believe that that had  
11 relevance in our public affairs efforts in trying to compile  
12 our quarterly report file so that they looked like we were  
13 meeting our FCC requirements when we put them away in a  
14 public file. George Mattmiller worked on those. And I  
15 believe the combination of the Adams license challenge and  
16 the must carry laws is when we saw the increase in public  
17 affairs.

18 BY MR. COLE:

19 Q Thank you.

20 Now, going back to the period 1989 to 1994, the  
21 license term, you testified about ascertainment efforts that  
22 were undertaken. Were those ascertainment efforts utilized  
23 in the determinations of what programming was broadcast?

24 A What programming to broadcast? When you say  
25 program, you mean half hour programs, or --

1 Q Public service programming.

2 A Okay.

3 Q Of any kind.

4 A And that was between --

5 Q 1989 to 1994.

6 A Sometimes. Sometimes the ascertainment sheets  
7 would come into play with maybe trying to do a topic. I  
8 think Aids was one of the topics that may have showed up on  
9 some ascertainment sheets and we ended up getting the  
10 Berk's Aids network in to do a show.

11 But most of the time, the ascertainment sheets  
12 that we had filled out, were collected and were put into the  
13 quarterly reports and didn't really have an impact as far as  
14 what shows we usually do on Community Outreach or Kid's  
15 Corner.

16 Those types of shows, generally, we relied on the  
17 rolodex that we had with some of the non-profit  
18 organizations in the area. We contact them regularly to see  
19 what was going on. Kim Bradley had a lot of that  
20 responsibility.

21 We come across people in the community and they  
22 would bring up ideas. You know, we're having this fund  
23 raiser going on. We'd tell them come on Community Outreach  
24 and talk about it. If there were people coming through the  
25 area, maybe authors that had a book about, oh, let's pick a

1 topic. Maybe living healthy. You know, we would invite  
2 them in and they could talk about their book and talk about  
3 living healthy.

4 That would be an example of Community Outreach.  
5 Thinks like that. Cooking shows.

6 Q Were those -- was the choice of putting those  
7 types of programs on the air influenced by the ascertainment  
8 results that you had received?

9 A No, like I said, occasionally it would. But most  
10 of the time, again, it was things that came in the mail.  
11 You know, we'd see them, we'd say, hey, this could probably  
12 make a good show or the Rice Council was coming through this  
13 part of the states and they were going to do some shows on  
14 how to cook rice and how to eat healthy during the summer.

15 It was generally things that came over the fax or  
16 in the mail that were somewhat, I guess, convenient and  
17 topics that caught the eye of, say, George Mattmiller, Kim  
18 Bradley or myself.

19 Q Mr. Bendetti, Reading Broadcasting is also offered  
20 testimony to the effect that throughout 1989 to 1994, the  
21 entire license term, station WTVE had the ability to air  
22 live programming, either from inside its studio or outside  
23 its studio.

24 And I refer Mr. Hutton and Mr. Shook to Reading  
25 Broadcasting Exhibit No. 7, which is the testimony of David

1 Case.

2 My question to you, Mr. Bendetti, is to your  
3 knowledge, was the station able at all times during the  
4 period 1989 to 1994 to air live programming, either from  
5 inside its studio or outside the studio?

6 A Between 1989 and 1994, we weren't able to air  
7 anything on remote outside the studio back to the station.  
8 I work at FOX news now. I mean, you need microwave  
9 equipment in order to take something from a remote location,  
10 send it back to your TV station and be able to broadcast it.  
11 So, we never had that capability.

12 As far as doing things in the studio, nobody knows  
13 why, 1989 we did a -- or maybe 1990, may have been the  
14 beginning of 1990, we did a little contest, Cancun contest  
15 where we gave away a cruise or something like that, a trip.  
16 And we tried to do that from our studio live. We're not  
17 really set up to do it, but it was a way of patching some  
18 cables and cutting out of our regular program, we were able  
19 to come in with a live Cancun contest. It was like two  
20 minutes long. That was the last thing we did.

21 I think we tried to do things after that. As a  
22 matter of fact, we were going to try to do a live Bingo show  
23 if we could get a sponsor for it, where Bingo balls would  
24 come up. And there was also an idea to do a call in show,  
25 similar to the radio station where people call in and talk

1 about issues, and you know, usually get a little rapport  
2 going. We were going to try to do shows like that.

3 And I was told by our chief engineer, Gib White,  
4 who I believe was an outside contractor. I'm not sure if  
5 he's still there. But he told me that we're really not  
6 equipped to go live from our studio. If we wanted to do  
7 that and we could get shows that like, he'd be willing to  
8 re-wire the place so that we could do it. But it would take  
9 us off the air for about two days.

10 Q And you mentioned the Cancun contest and I believe  
11 you said it was early 1990, is that correct?

12 A Either the end of '89 or 1990. I know Ralph  
13 Tobias was still there. Yes, probably like 1990, the winter  
14 of 1990.

15 Q Did you know when the -- when did you have your  
16 conversation with Mr. White?

17 A Ninety-two, '93, somewhere in there.

18 Q So the station was not able to go live from the  
19 studio, is that your testimony?

20 A That's what --

21 MR. HUTTON: I object, Your Honor, that  
22 mischaracterizes his testimony. His testimony was that the  
23 station wasn't able to go live without doing a patch, a  
24 temporary patch. He didn't testify there was --

25 JUDGE SIPPEL: I'll sustain the objection.

1 BY MR. COLE:

2 Q Was the station able to broadcast live emergency  
3 announcements as they came in from, for example, the  
4 Emergency Broadcast System?

5 A What period of time you talking about now?

6 Q 1989 to 1994.

7 A When you say -- when you say live, we didn't do it  
8 exactly live. Most stations, if you -- if your EBS system  
9 --

10 JUDGE SIPPEL: No, no, just answer his question.  
11 This is with respect to WTVE.

12 THE WITNESS: Okay.

13 JUDGE SIPPEL: You want to state the question  
14 again?

15 THE WITNESS: Say it again.

16 BY MR. COLE:

17 Q During the period 1989 to 1994, was the station  
18 able to broadcast live emergency information when the  
19 situation warranted it?

20 A I would say live, no.

21 Q Do you recall any emergency situations in which  
22 the station did broadcast live information about the  
23 emergency during the period 1989 to 1994?

24 A Broadcast it live? No.

25 Q You recall any emergencies during that period of

1 time that would, in your experience, normally would have  
2 warranted emergency broadcast by the station?

3 A Yeah, thunderstorms. A lot of time we get severe  
4 thunderstorms. Our EBS test would go off and, you know, we  
5 -- it was up to us to type in the information and crawl it  
6 across the screen, live. But we did it on tape.

7 Q Could you crawl it across the screen, if  
8 necessary?

9 A No, our character generator, it's called a kiron,  
10 that did not have crawl capabilities. And if we tried to  
11 put things over the air, superimpose it you see on a regular  
12 television station, you see the words come across severe  
13 thunderstorms, whatever. When we try to do that, it was not  
14 in sync. The words would just kind of drift across the  
15 screen. They would kind of change colors. You could tell  
16 it was not in sync.

17 What we'd have to do -- is it all right if I  
18 explained what we did? We would type it up, the text in the  
19 character generator and then put it on tape, put it on  
20 videotape and then run it back. That way we'd cut into the  
21 home shopping club or wait until a commercial break and cut  
22 in there and then run something.

23 Q Do you recall in January of 1994 that an  
24 earthquake struck Reading?

25 A Yeah.

1           Q     Did the station, to your knowledge, air any  
2 announcements concerning the earthquake at the time of the  
3 earthquake?

4           A     To my knowledge, we did not. It was a Sunday, I  
5 remember that. I was at home with some relatives and George  
6 Mattmiller inquired whether we were able to notify people,  
7 and we weren't able to.

8           Q     I'm sorry, could you clarify that? George  
9 Mattmiller --

10           MR. HUTTON: Your Honor, this is clearly hearsay.  
11 He's -- he's passing on information that he thinks  
12 Mattmiller was told by someone else.

13           JUDGE SIPPEL: Well, he's given his -- he's giving  
14 his observations, his observed -- these are occurrences that  
15 he's observed and this is what he's testifying to. You  
16 know, he has a reason not to tell the truth, you can bring  
17 that out on cross-examination. But -- or if he can't -- if  
18 he's unable to understand what he's testifying to. But he's  
19 just observing some things that happened around him.

20           MR. HUTTON: Well, the last testimony was  
21 purported to be a recitation of what Mr. Mattmiller was told  
22 by an unnamed party.

23           JUDGE SIPPEL: Well, object then. Yeah, he can't  
24 testify -- unless he identifies who that party is and in  
25 what context was he told this, that's not your fault. You

1 know, you should be objecting to that.

2 MR. HUTTON: I do object.

3 JUDGE SIPPEL: All right, I'm going to sustain  
4 that objection. Rephrase the question. Give a little  
5 foundation.

6 BY MR. COLE:

7 Q You stated, Mr. Bendetti, that you were not aware  
8 of any emergency announcements concerning the earthquake in  
9 January of '94, is that correct?

10 A Correct.

11 Q How did you know that?

12 A The reason I knew that is because George  
13 Mattmiller had asked the master control operators if we were  
14 able to alert people, get any message out there, and they  
15 said no.

16 Q Did you hear the master --

17 JUDGE SIPPEL: Hold on just a second, how do you  
18 know that? How do you know that George Mattmiller asked  
19 them that?

20 THE WITNESS: Because George told me. It was kind  
21 of a big issue at the time because George was upset that  
22 here we are, the only TV station in Reading, and we can't  
23 even -- I mean, how often does an earthquake happen and we  
24 can't even let the viewers know.

25 And he set up -- he tried to set up a process with

1 the -- after this earthquake, he tried to set up a process  
2 with the emergency bureau in Berk's County with --

3 JUDGE SIPPEL: He being George Mattmiller.

4 THE WITNESS: George Mattmiller with Mr. Loose  
5 Jones, or something. George wanted to have some sort of  
6 communications going forward if something like this were to  
7 ever happen again.

8 MR. HUTTON: I object. It's clearly hearsay.

9 JUDGE SIPPEL: Well, I'm going to let him to  
10 testify to that because he specified exactly what the event  
11 was. And what the circumstances -- what he observed the  
12 circumstances to be at the time of the event. You know,  
13 we're not trying to get him to testify to support his  
14 statements that he made out of court. He's testifying as to  
15 what he observed. And some of that -- certainly, some of  
16 that was verbal. But it was his observations. And it's  
17 either credible or it's not credible.

18 BY MR. COLE:

19 Q Mr. Bendetti, evidence has been offered concerning  
20 equipment outages and power reductions at the station,  
21 including evidence about the frequency of such outages and  
22 reductions and the cause of such outages and reductions.

23 Could you please describe, based on your own  
24 observations during the period 1989 to 1994, the frequency  
25 of the station's equipment outages and power reductions and

1 the causes for those outages and power reductions?

2 A Okay. Between '89 and '94, I can't give specific  
3 numbers, obviously, but the station did have a lot of  
4 transmitter problems. Some years were better than others.  
5 Some years we wouldn't go off the air as much. Some years  
6 transmitter -- you know, a lot of it had to do with heat,  
7 depending what kind of summers. And the winters, how cold  
8 the winters were.

9 But some of the things that happened during that  
10 time period, we used to spring leaks in the transmitter. It  
11 was an older RCA transmitter, used to have problems with  
12 leaks. Our assistant engineer used to have to go up and  
13 constantly fill water, put water in there to keep it cooled  
14 down. That was a problem with it. And that used to knock  
15 us off the air sometimes because of the leaks, the heat.

16 There was a period of time where we lost one of  
17 our klystron tubes. Klystron tube is about a \$35,000 piece  
18 of equipment. I don't know what year that was. I think it  
19 was in '93 or '94, I'm not quite sure the year when that --  
20 when we lost that.

21 JUDGE SIPPEL: Did Mr. Case testify to this?

22 MR. COLE: Mr. Case gave testify -- yeah, I'm  
23 trying not to interrupt him, Your Honor, but if you want to  
24 interrupt him, please do.

25 JUDGE SIPPEL: Well, I mean -- yeah.

1           MR. COLE: What I'm trying to get to is how often  
2 this happened. Mr. Case tended to minimize the number of  
3 outages and I'm hoping to get him to address the frequency  
4 of the outages and the power reductions.

5           MR. HUTTON: Your Honor, I object to that. During  
6 document production in this case, we turned over logs that  
7 showed the status of transmitter every day of the license  
8 term. If there were outages, they were noted on the logs.  
9 They had the opportunity to cross-examine Mr. Case on this.  
10 He testified about it. He was -- they introduced numerous  
11 logs into evidence and Mr. Case testified. And his -- Mr.  
12 Bendetti's testimony is not rebuttal. It's confirming Mr.  
13 Case's testimony.

14           JUDGE SIPPEL: We did have all that. I mean, it  
15 was all documented. Wasn't all the outages documented?

16           MR. COLE: We have a number of documented outages,  
17 Your Honor.

18           JUDGE SIPPEL: And you think there are  
19 undocumented outages?

20           MR. COLE: We don't know. What the record now  
21 reflects is that Mr. Case testified that the transmitter  
22 was, you know, in reasonably good working order,  
23 occasionally go down, but that was that. And Mr. Bendetti,  
24 I believe, has a different recollection of the situation.  
25 And I'm just trying to get him to testify to that, that's

1 all.

2 JUDGE SIPPEL: But he doesn't have any -- that was  
3 not his area of expertise.

4 MR. COLE: His station was -- his area of  
5 expertise, Your Honor, was the station operations. If the  
6 station went down, was off the air, he couldn't do his job.  
7 He was operating seriously under power, the complaints  
8 wouldn't go to Mr. Case. The complaints would go to Mr.  
9 Bendetti.

10 MR. HUTTON: But, Your Honor, these were all noted  
11 on the logs we produced and they had the opportunity to  
12 cross-examine Mr. Case about every one of those logs.

13 JUDGE SIPPEL: Yeah, I'm going to sustain the  
14 objection, in the interest of time. And I think there are  
15 other more important things that this witness is testified  
16 to.

17 For all the reasons that Mr. Hutton stated, I'm  
18 going to sustain the objection.

19 BY MR. COLE:

20 Q Mr. Bendetti, you testified that to your  
21 knowledge, the station received complaints from listeners,  
22 viewers about the Dr. Scott program. And I believe you also  
23 testified the station received complaints from certain cable  
24 television operators when the station was operating -- was  
25 operating under power.

1           Did the station receive any complaints from any  
2       other sources? During the period of 1989 to 1994?

3           MR. HUTTON: Your Honor, I want to note a  
4       limitations specified in your order. You indicated that the  
5       rebuttal testimony on complaints would be limited to  
6       complaints about only public service programming. And Mr.  
7       Cole is trying to go into a broader area.

8           MR. COLE: I'm perfectly happy to limit my  
9       questioning to public service programming, Your Honor.

10          JUDGE SIPPEL: Very well.

11          MR. COLE: I apologize to Mr. Hutton for not --

12          JUDGE SIPPEL: All right. Well, I'll sustain the  
13       objection.

14                Do you understand the question as we framed now?  
15       Complaints from other things.

16          THE WITNESS: Besides Dr. Scott and the power  
17       outages?

18          JUDGE SIPPEL: Complaints about public service  
19       programming from members of the public or from any third  
20       party.

21          THE WITNESS: Yeah. We -- a lot of times people  
22       --

23          JUDGE SIPPEL: I'm sorry, sorry to interrupt you.  
24       Are we talking about the timeframe?

25          MR. COLE: Yeah, I qualified, I thought, in my

1 question.

2 JUDGE SIPPEL: You probably did.

3 MR. COLE: But 1989 to 1994.

4 THE WITNESS: Some of the complaints that we heard  
5 in the community, you know, is TV 51, how come you guys  
6 don't go out and cover anything. You used to have news, you  
7 used to have a newscast, it was great. How come the city  
8 the size of Reading can't have a newscast when you have  
9 Lancaster is about the same size, that can have a newscast.  
10 Allentown's got their own newscast.

11 So, we used to -- we see those complaints all the  
12 time. Usually, those were from people that we came across  
13 on the street, or if we had guests come into our studio that  
14 remembered the TV station the way it was earlier when we had  
15 news.

16 Other complaints with public service were news.  
17 Those shows that we did, those little vignettes, the  
18 Community Outreaches, the In Touch's. A lot of times people  
19 want to watch those after they appeared on them and they  
20 want to know what time they came on. And we, we used to  
21 say, well, it comes on about 20 after the hour like three  
22 times a day.

23 So, we would either tell them to call us up the  
24 next day or whenever they were edited and we could let them  
25 know what time slots they were on. It would be on at the

1 8:20 break in the morning or the 12:20 break in the  
2 afternoon.

3 A lot of times people would just say, aw, I'm not  
4 going to try to watch the station, I don't to watch the home  
5 shopping club, just, you know, can you run me off a VHS  
6 copy. So, we used to just make copies sometimes for our  
7 guests when they came in. Just mainly that. The news --  
8 the news was a big -- that's all -- I was there from '80,  
9 the end of '84 on and that's one of the biggest things I  
10 heard. Is how come you guys don't cover the air. I didn't  
11 even know you were still up there at TV 51. Oh, is that  
12 still there?

13 You know, that's the kind of things I used to  
14 hear, complaints when I was out in the TV 51 vehicle or, you  
15 know, shooting something with a camera with the TV 51 logo  
16 on it, I used to hear that all the time.

17 BY MR. COLE:

18 Q Mr. Bendetti, during the period 1989 to 1994, did  
19 the station make any effort, to your knowledge, to produce a  
20 local news program of any kind?

21 A From '89 to '94?

22 Q Yes.

23 A Well, we put an hour long news program together in  
24 '89. Maybe it was the beginning of '90. That was when Mike  
25 Parker first came to town. We put together a program called